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OFFICE OF PETITIONS

In re Application of :
Grabelsky, et al. :
Application No. 09/584,516 :
Filed: May 31, 2000 :
Attorney Docket No. 2876-US-CIP :
For: METHOD FOR ADDRESS MAPPING
IN A NETWORK ACCESS SYSTEM AND A
NETWORK ACCESS DEVICE FOR USE
THEREWITH

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 22, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to an Office letter purportedly mailed on September 11, 2007. The Office contended that this application became abandoned for failure to reply to the September 11, 2007 Office letter, as was explained in A Notice of Abandonment, mailed on December 13, 2007.

Petitioners request withdrawal of the holding of abandonment based on the assertion that no September 11, 2007 Office letter was received.

It is noted that a Notice to File Corrected Application Papers, dated September 11, 2007, is present in an internal Office generated document dated August 29, 2007. The Notice to File Corrected Application Papers is not present in the application file as a separate document. It appears the Notice to File Corrected Application Papers was never mailed to applicants.

In addition, petitioners have provided a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

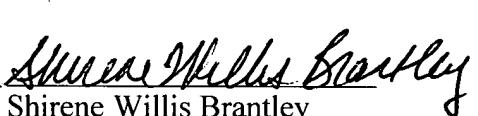
See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The showing does not satisfy the above-stated requirements because the attorney providing the showing appears to have been empowered after the mailing in question was purportedly made. In other words, the attorney providing the showing was not practicing at the then-correspondence address of record when the Notice was purportedly mailed. Which firm's/company's records did he review and reference in the petition?

The issue need not be resolved because the irregularity surrounding the purported mailing of the September 11, 2007 Notice is sufficient to warrant a withdrawal of the holding of abandonment. The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the December 13, 2007 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to the Office of Data Management for the mailing of the Notice to File Corrected Application Papers with a period for reply to run from the mail date of the Notice.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy